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Mar 14 ✓

Report

5/03 RETURNED TO HOUSE
 5/03 SIGNED BY SPEAKER
 5/03 SIGNED BY PRESIDENT
 5/03 TRANSMITTED TO GOVERNOR
 5/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 762

EFFECTIVE DATE: 7/01/91

HB 858 INTRODUCED BY GILBERT, ET AL.

 STATEWIDE HOUSEHOLD HAZARDOUS WASTE
 PUBLIC EDUCATION PROGRAM

2/14 INTRODUCED
 2/14 REFERRED TO NATURAL RESOURCES
 2/15 FIRST READING
 2/15 FISCAL NOTE REQUESTED
 2/20 FISCAL NOTE RECEIVED
 2/20 FISCAL NOTE PRINTED
 2/22 HEARING
 2/23 COMMITTEE REPORT—BILL PASSED
 2/23 PLACED ON CONSENT CALENDAR
 2/26 3RD READING PASSED

96 3

TRANSMITTED TO SENATE
 2/26 FIRST READING
 2/26 REFERRED TO NATURAL RESOURCES
 3/13 HEARING
 3/26 COMMITTEE REPORT—BILL CONCURRED
 3/28 2ND READING CONCURRED
 4/01 3RD READING CONCURRED

23 13
39 10

RETURNED TO HOUSE
 4/04 SIGNED BY SPEAKER
 4/04 SIGNED BY PRESIDENT
 4/05 TRANSMITTED TO GOVERNOR
 4/09 SIGNED BY GOVERNOR
 CHAPTER NUMBER 407

EFFECTIVE DATE: 10/01/91

HB 859 INTRODUCED BY DOWELL, ET AL.

 TAX CREDIT FOR TEACHERS DONATING
 USE OF COMPUTERS TO CLASSROOMS

2/14 INTRODUCED
 2/14 REFERRED TO TAXATION
 2/15 FIRST READING
 2/15 FISCAL NOTE REQUESTED
 2/19 FISCAL NOTE RECEIVED
 2/21 FISCAL NOTE PRINTED
 3/15 HEARING
 3/27 TABLED IN COMMITTEE

HB 860 INTRODUCED BY DOWELL, ET AL.

DECLARE STATE BUILDINGS SMOKE-FREE

2/14 INTRODUCED
 2/14 REFERRED TO HUMAN SERVICES & AGING
 2/15 FIRST READING
 2/18 HEARING
 2/20 COMMITTEE REPORT—BILL PASSED AS AMENDED
 2/25 2ND READING PASSED
 2/26 3RD READING PASSED
 TRANSMITTED TO SENATE
 2/26 FIRST READING
 2/26 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 3/11 HEARING
 3/14 COMMITTEE REPORT—BILL CONCURRED AS AMENDED
 3/16 2ND READING CONCURRED

59 40
59 39

25 24

HOUSE FINAL STATUS

HB 863

3/18	3RD READING FAILED	24	26
3/19	RECONSIDERED PREVIOUS ACTION	26	23
3/20	REREFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	31	13
3/28	3RD READING CONCURRED	36	13
	RETURNED TO HOUSE WITH AMENDMENTS		
4/10	2ND READING AMENDMENTS CONCURRED	70	28
4/11	3RD READING AMENDMENTS CONCURRED	65	32
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 539		

EFFECTIVE DATE: 5/01/91

HB 861 INTRODUCED BY SWYSGOOD, ET AL.

10% OF ACCOMMODATION TAX TO REDEEM BONDS
FOR CONSTRUCTING VISITOR CENTERS

2/14	INTRODUCED		
2/14	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/15	FIRST READING		
2/15	FISCAL NOTE REQUESTED		
2/22	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		
3/08	HEARING		
3/12	COMMITTEE REPORT—BILL NOT PASSED AS AMENDED		
3/13	ADVERSE COMMITTEE REPORT REJECTED (PLACED ON 2ND READING)	76	24
3/19	2ND READING DO PASS AS AMENDED		
	MOTION FAILED	42	56

HB 862 INTRODUCED BY BRADLEY, ET AL.

REVISE REQUIREMENTS FOR SCREENING VOLUNTARY
ADMISSIONS TO THE STATE HOSPITAL
BY REQUEST OF DEPARTMENT OF INSTITUTIONS

2/14	INTRODUCED		
2/14	REFERRED TO HUMAN SERVICES & AGING		
2/15	FIRST READING		
2/15	FISCAL NOTE REQUESTED		
2/20	FISCAL NOTE RECEIVED		
2/21	FISCAL NOTE PRINTED		
2/22	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED		
2/26	2ND READING PASSED	69	31
2/27	3RD READING PASSED	68	31
	TRANSMITTED TO SENATE		
2/27	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/04	FIRST READING		
3/18	HEARING		
4/01	TABLED IN COMMITTEE		

HB 863 INTRODUCED BY D. BROWN, ET AL.

AUTHORIZING TAX CREDITS FOR SMALL
BUSINESS INVESTMENT COMPANY

2/14	INTRODUCED		
2/14	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/15	FIRST READING		
2/15	FISCAL NOTE REQUESTED		
2/19	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	FISCAL NOTE PRINTED		

Questions From Committee Members: None

Closing by Sponsor:

REP. KNOX stated that this bill simply clarifies an issue in the statute that elderly patients were appropriately serviced and that all their mental illnesses are not necessarily related to the aging process. These clarifications are needed.

EXECUTIVE ACTION ON HB 713

Motion/Vote: REP. JOHNSON MOVED HB 713 DO PASS AS AMENDED AND BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously.

HEARING ON HB 820 & HB 860

Presentation and Opening Statement by Sponsor:

REP. HOWARD TOOLE, House District 60, Southwest Missoula, stated that this bill grants local authorities the option of proceeding with the designation of non-smoking zones in communities. The bill simply modifies the existing law on smoking by allowing regulations adopted by the local board of health which allows designation of non-smoking areas in buildings. Section 2, contains a provision that says unless the non-smoking designation covered by state law applies, it is inconsistent with local regulations. Section 3, allows the local board of health to carry out those regulations. It is true that a large number of merchants and others are unaware of the obligation to designate non-smoking areas within public places. In certain communities, it is desirable to give the local authorities the authority to act on reasonable regulations on their areas much more than the state has.

Presentation and Opening Statement by Sponsor:

REP. TIM DOWELL, House District 5, Kalispell, stated that the problem and the issue that this bill addresses isn't smoking. Smoking is a persons right to do or not to do. 80% of Montanans choose not to smoke, but there are 20% that have chosen to smoke and that is their choice. The issue is second hand smoke or passive smoking, which you can get a couple of different ways. One is when a person is holding a cigarette, cigar, or pipe and some of that second hand smoke comes off the end of the burning tobacco and into our lungs. Some of that is filtered through their lungs and out of their mouth. The issue is not whether you smoke or you don't. The 80% of people that do not smoke decide to go into a state building that has a smoking area ends up smoking anyway. All state buildings, by matter of policy, should be smoke free. He submitted a page of the Montana Constitution.
EXHIBIT 6

Proponents' Testimony:

Brian McMiddle, Montana Environmental Information Center, stated that they believe that Montanans have the right to a clean and healthy environment indoors as well as outdoors. They believe this bill will support that.

REP. THOMAS LEE stated that it is time that we recognize the medical realities of this situation and that we do something positive.

Paulette Kohman, Executive Director, Montana Council for Maternal and Child Health, the council is an independent public policy research education organization which researches and advocates in the public arena for things that help the health of mothers and children. In the area of tobacco, the expertise that our board directors has brought to us and has made us aware, is that passive smoking is growing in its remission as a major contributor to child health problems and the problems in fetal development in pregnant women. We favor this bill as a way of decreasing some of that passive smoke that is inevitable.

Opponents' Testimony:

REP. ROBERT PAVLOVICH stated that HB 820 is a local option bill. We have other bills that are local option, if we are going to vote for one then we should vote for them all or kill them all. This bill brings up the issue of taverns, he doesn't serve breakfast and dinner at his tavern, but he does serve lunch five days a week. He is very concerned about the little tavern that might only serve a few things, does this include them in the bill. All of the state buildings were built with cigarette money. Now we can't smoke in these buildings, which is fine, but now we should take the money out of long range building and use it for something else.

Mark Staples, Montana Tobacco and Candy Wholesalers & Montana Tavern Association, stated that they oppose these bills for a number of reasons. He also submitted written testimony. EXHIBIT 7 & 8

Jerome Anderson, Tobacco Institute, submitted written testimony. EXHIBIT 7 & 8

John Delano, Philip Morris Ltd., submitted written testimony. EXHIBIT 7 & 8

Roger Tippy, R.J. Reynolds Co., submitted written testimony. EXHIBIT 7 & 8

Scott Morton, 4B's Restaurant Corporation in Montana, stated that they employ approximately 500 people. They oppose HB 820 and believe the present law works very well. They have a designated non-smoking area in our facilities and have received no complaints for the tens of thousands of customers we serve each year.

Leon Stalk, Montana Restaurants Association, stated that of the several thousand restaurants in the State of Montana, he doesn't know of any that do not respond to 50-40-103, MCA that is now a law. The public has been well served by this statute.

James Mullar, stated that these two pieces of legislation are a violation of equal rights. We are addicted to tobacco and we are not afraid to admit it. We did build those state buildings that we cannot smoke in and he feels that this violates my equal rights to smoke where he wants to smoke. If you are going to keep taking that away, the people that advocate this should be taxed for the buildings that we had to build.

Charles Brooke, Montana Retail Association (MRA), stated that if HB 820 is passed there will be a patchwork of requirements and enforcements. Where there are multiple store locations this will create quite a management problem. MRA recognizes that they must provide in their current establishment those smoking and non-smoking areas. It seems that the bill is currently working properly and that to turn it over to the local communities would create an undue burden on many of the merchants in which represent.

Questions From Committee Members:

REP. BROWN asked what the effects are of second hand smoke. Dr. Robert Shepherd stated that second hand smoke can be divided into both sidestream smoke and mainstream smoke. Mainstream smoke is the smoke that the smoker lightly filters through his own lungs before he exposes the rest to us. Sidestream smoke comes straight off the cigarette. Approximately 85% of the smoke in a given room in a given time is sidestream smoke which is much more deadly than mainstream smoke because it contains higher concentrations of all the known carcinogens and all the known bad elements, nicotine and carbonmonoxide that is found in smoke. It is very clear that nonsmokers are exposed to that. Cigarette smoke is very quickly absorbed by the nonsmokers. There is no question that occurs. In studies of infants whose mothers smoke, they can measure the nicotine byproduct in the infants urine and the amount that is measured is directly proportional to the amount that the mother smokes. There is no doubt in anybody's mind that cigarette smoking causes lung cancer. What can be demonstrated and demonstrated very clearly is that the amount of lung cancer that you are at risk for getting is strictly depending on the number of cigarettes they smoke. A person that smokes one cigarette a day has a 30% higher chance of developing lung cancer than a nonsmoker. All the studies on nicotine levels in nonsmokers urine who are exposed to that, either at home or at the work place smoke cigarettes on the order of one cigarette a day. That means that the nonsmokers exposed to smokers have a 30% higher rate of lung cancer. 390,000 Americans die every year from cigarette smoke and approximately 50,000 die from the cigarette smoke as nonsmokers.

REP. CROMLEY asked if the county health board makes regulations that are not as strict as the current law. REP. TOOLE stated he agrees with that as the way the bill is drafted. It says "unless inconsistent with regulations adopted by the local board of health".

Closing by Sponsor:

REP. TOOLE stated that in response to HB 820 and the surprising lack of trust in the ability of the locals to enforce and develop reasonable and sensible regulations in this area and a great deal of skepticism expressed, concerning local health departments is the only comment that made any sense to me. Local and political entities and county commissions would be as appropriate as some departments to regulate this. There are communities that are going to want to develop and implement their own regulations and those regulations could well have merit. The problem that led to the introduction of this bill is the enforcement problem. There are parts of the community that are subject to this law. The communities aren't aware that they are not doing anything about this. DHES is involved in the operation of this law. It is a law that is not very well known or understood. It is not really being brought to the attention of businesses by local governments because it is not the local governments responsibility by destination to be involved in it.

Closing by Sponsor:

REP. DOWELL stated that smoking is a voluntary act, passive smoking is often times not. Many people in this state have no choice, among those people are children. Do the children have rights, whose rights are really being infringed upon. The long range building fund was in regards to legislation in the 1940's. It wasn't until the 1960's that the Surgeon General said that smoking was bad for you, that was twenty years after the big building fund. We can solve all of our budgetary problems, lets just encourage smoking. If we doubled smoking think how much money we could get. Why wasn't something done about this issue of second hand smoking earlier. One cigarette a day can increase your chances of getting lung cancer by 30%. He submitted testimony. EXHIBIT 9 & 10

EXECUTIVE ACTION ON HB 820

Motion: REP. DOWELL MOVED HB 820 DO PASS.

Discussion:

REP. MESSMORE asked if under the current law, does a restaurant in the state have to have a designated non-smoking area and if they don't who are they reported to. REP. DOWELL stated that they do have to have a designated non-smoking area. The local board of health has the authority to charge them with a violation.

REP. CROMLEY stated that if a proprietor wants to, he can designate all non-smoking or smoking areas. The local departments of health would have a hard time enforcing this.

Motion/Vote: REP. WHALEN MOVED HB 820 BE TABLED. Motion carried 19-1 with REP. S. RICE voting no.

EXECUTIVE ACTION ON HB 860

Motion: REP. DOWELL MOVED HB 860 DO PASS.

Discussion:

REP. WHALEN stated that there was suppose to be a provision in the bill that says there would have to be at least one place designated in each public building where a person can smoke.

REP. DOWELL stated that was his intention and he would not resist an amendment, unless it would take a state building that might have one room where smokers can go in a corner of a room or designating one half of a room non-smoking and the other half smoking that would not be acceptable to the concept of what the bill is saying. There must be a physical barrier between smoking and non-smoking. David Niss said that can be accomplished in two ways. Page 2, section 3, line 12, change the "may" to "shall" which will maintain and use the discretionary language on line 15 and line 19. Or we could strike section 6, from the bill. That would maintain the status quo.

REP. STICKNEY asked why this couldn't be covered in the current act. It seems we are already doing what this bill wants to do.

REP. DOWELL stated that the language is that a supervisor may designate areas as non-smoking or may designate areas as smoking. Designating a smoking area in one corner of a non-smoking room won't work, people will have to walk by the smoke and will inhale the smoke if the smokers are in a corner or not. The state needs to go on record with a policy saying we believe a building should be smoke free and here is place for you to smoke. It shouldn't be in places where a majority of any particular worker must go in order to carry out their duties.

REP. SPRING stated that he supports this bill. The 80% of nonsmokers need more protection in our society.

REP. J. RICE asked if state buildings can, under the present law be declared totally smoke free if they have at least 7 employees working in the building because of section 6. This bill is basically saying that we want the ability to declare state buildings totally smoke free, but they will give the smokers a smoking area somewhere.

REP. MESSMORE stated that we want as much of a smoke free environment as we can get, however, in this bill there is permissive language.

REP. WHALEN stated that until everyone quits smoking and until we recognizing that these people have addictions, we are going to have to make some accommodations in these buildings for these people to smoke so that they don't have to go too much out of their way.

Motion: REP. WHALEN moved to amend HB 860.

Discussion:

REP. WHALEN stated that there has to be one designated place that a person can smoke.

REP. MESSMORE stated that she works in a facility that has eight floors, 1,200 employees and many of visitors. We have one area on the first floor designated as smoking. This has worked very well. REP. WHALEN stated that is in a hospital. This issue is public state buildings and at least one smoking area for every two floors is reasonable.

REP. TUNBY stated that he agrees with the amendment.

REP. GALVIN stated that he is allergic to smoke and his wife has cancer from smoke. Neither of them smoke but they have to deal with the circumstances from other smokers.

Motion: REP. WHALEN MADE A SUBSTITUTE MOTION TO AMEND HB 860.

Title, line 5.

Strike: "ALLOWING"

Insert: "REQUIRING"

Title, line 6.

Strike: "DESIGNATED SMOKING AREAS"

Insert: "AT LEAST ONE DESIGNATED SMOKING AREA IN EACH
STATE BUILDING"

Page 2, line 12.

Strike: "may"

Insert: "shall"

Following: "establish"

Insert: "at least one"

Page 2, line 13.

Strike: "areas"

Insert: "area"

Page 2, line 13.

Strike: "agency"

Insert: "building"

Discussion:

REP. WHALEN stated that he talked with one representative who

smokes and has signed on to this bill. He signed the bill because he was assured that at least one place in each building would be set aside for smokers.

REP. TUNBY asked who would be the agency head in this building that would make the determination of where the smoking area would be. REP. WHALEN stated that it would be the Department of Administration.

REP. BECKER stated that she would like to support the amendments.

REP. MESSMORE asked what happens on page 4, section 5, line 3, subsection 6. Do the state smoke free buildings have to find one spot where smokers can go. REP. DOWELL said yes, section 3 is the definition of smoke free buildings.

Vote: Motion carried 18-2 with REPS. LEE and SPRING voting no.

Motion/Vote: REP. WHALEN moved to amend HB 860. Motion carried 11-7 with REPS. BROWN, CROMLEY, JOHNSON, LEE, MESSMORE, J. RICE, and SPRING voting no.

Page 3.

Following: line 14

Insert: "(4) In buildings of historical significance, the department shall place signs that are aesthetically pleasing and that fit the architectural style of the building.

Motion: REP. DOWELL MOVED HB 860 DO PASS AS AMENDED.

Discussion:

REP. J. RICE asked if section 3 becomes part of the Indoor Clean Air Act. David Niss stated that it will be codified in the same place and it has to do with the same subject.

Vote: Motion carried 17-3 with REPS. KASTEN, SQUIRES and STICKNEY voting no.

HEARING ON HB 666

Presentation and Opening Statement by Sponsor:

REP. BEVERLY BARNHART, House District 80, Bozeman, stated that this is an act providing examination to determine the mental condition of a person accused of a crime to be conducted by a licensed social worker. This bill lists licensed social workers (LSW) throughout the law so that they can be expert witnesses for testifying on the mental conditions of persons accused of crime. LSWs, along with psychologists and licensed psychologists, would be called on to examine an accused person of a mental condition. Not all LSWs will want to do this type of examination, but there are those that will want to. They have the education and many

HOUSE STANDING COMMITTEE REPORT

February 19, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that House Bill 860 (first reading copy -- white) do pass as amended .

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Title, line 5.
Strike: "ALLOWING"
Insert: "REQUIRING"

2. Title, line 6.
Strike: "DESIGNATED SMOKING AREAS"
Insert: "AT LEAST ONE DESIGNATED SMOKING AREA IN EACH STATE
BUILDING"

3. Page 2, line 12.
Strike: "may"
Insert: "shall"
Following: "establish"
Insert: "at least one"

4. Page 2, line 13.
Strike: "areas"
Insert: "area"

5. Page 2, line 13.
Strike: "agency"
Insert: "building"

6. Page 3.
Following: line 14
Insert: "(4) In buildings of historical significance, the
department shall place signs that are aesthetically pleasing
and that fit the architectural style of the building"

MONTANA CONSTITUTION

3

DECLARATION OF RIGHTS

Art. II, § 3

EXHIBIT 6

2-18-91

860

26. Trial by jury.
27. Imprisonment for debt.
28. Rights of the convicted.
29. Eminent domain.
30. Treason and descent of estates.
31. Ex post facto, obligation of contracts, and irrevocable privileges.
32. Civilian control of the military.
33. Importation of armed persons.
34. Unenumerated rights.
35. Servicemen, servicewomen, and veterans.

Section 1. Popular sovereignty. All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Cross-References

Self-government, Art. II, sec. 2, Mont. Const.
Right of participation in governmental affairs,
Art. II, sec. 8, Mont. Const.
Right to know, Art. II, sec. 9, Mont. Const.
Right of suffrage, Art. II, sec. 13, Mont. Const.
Const.
General government, Art. III, Mont. Const.
Constitutional revision, Art. XIV, Mont. Const.
Const.
Government Structure and Administration,
Title 2.
Basic political rights, Title 49, ch. 1, part 2.

Constitutional Convention Transcript Cross-References

Adoption, Trans. 2933, 2934.
Committee report, Vol. II 620, 626, 957, 962, 967, 969, 1038.
Cross-references, 1889 and 1972 Constitutions, Vol. II 646.
Debate — committee report, Trans. 1635, 1636.
Debate — style and drafting report, Trans. 2476, 2921.
Final consideration, Trans. 2627, 2628.
Text as adopted, Vol. II 1087.

Section 2. Self-government. The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

Cross-References

Popular sovereignty, Art. II, sec. 1, Mont. Const.
Const.
General government, Art. III, Mont. Const.
Local government, Art. XI, Mont. Const.
Constitutional revision, Art. XIV, Mont. Const.
Const.
Constitutional Convention Transcript Cross-References
Adoption, Trans. 2933, 2934.

Committee report, Vol. II 620, 626, 957, 962, 967, 969, 1038.
Cross-references, 1889 and 1972 Constitutions, Vol. II 646.
Debate — committee report, Trans. 1636.
Debate — style and drafting report, Trans. 2476, 2921.
Final consideration, Trans. 2628, 2629.
Text as adopted, Vol. II 1087.

Section 3. Inalienable rights. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Cross-References

Right to bear arms, Art. II, sec. 12, Mont. Const.
Const.
Environment and natural resources, Art. IX, Mont. Const.

Department of Health and Environmental Sciences, Title 2, ch. 15, part 21.
Department of Agriculture, Title 2, ch. 15, part 30.

COMMENTS IN OPPOSITION TO HB 860

In 1985 and 1989 the Montana Legislature spoke and passed legislation regarding the regulation of smoking in offices and work areas of all buildings maintained by the state or its political subdivisions, other than those maintained by schools or community colleges. Schools and community colleges regulate smoking in their facilities through their boards of trustees. The remainder of buildings maintained by the state or political subdivisions of the state are regulated by the provisions of Section 50-40-201, MCA, a part of the "Montana Clean Indoor Air Act." The provisions of that statute are short and to the point. The statute provides that in offices and work areas in buildings maintained by the state or its political subdivisions in which seven or more employees are employed, the manager or person in charge of the work area shall arrange convenient smoking and non-smoking areas.

The statute makes no statement as to the specific location of the areas.

The statute makes no statement as to the specific size of the areas.

These matters are left, by the statute, to the discretion of the person in charge of those work areas where more than six people are employed.

The statute contains no definition of a work area, so the determination of what constitutes such an area is also left to the discretion of the person in charge.

The present regulatory statute does recognize the rights of the smoking minority by guaranteeing them some sort of smoking area in a convenient location.

Now, through the provisions of HB 860, the question of whether or not a smoking area is to be established is left solely to the discretion of agency heads. Agency heads can, under the provisions of HB 860, ban smoking totally throughout areas under their control. This can be done with no regard to the rights of a minority.

But even more disconcerting is the fact that so many areas of the work place are designated by the bill as areas where smoking is entirely prohibited that there is not much space left for smoking areas if the agency head should choose to provide any.

An agency head who is a non-smoking advocate could, under the terms of HB 860, simply issue an order prohibiting smoking throughout all of the buildings or facilities under his management and control. Smoking employees would have absolutely no recourse. Smoking employees could, of course, be subject to discipline if they smoked in areas designated as non-smoking. This discipline could ultimately result in suspension or even job termination.

If any other statute were proposed in this legislature that sought to erode other personal rights of an employee, such as those eroded by this bill, labor and the majority of this legislature would arise in righteous wrath and vote down the measure. Workers' rights regarding drug testing and other like matters are being jealously guarded in this session. We respectfully suggest that the rights of employees being taken away by this bill merit the same concern.

On any work day, you can drive around this state campus and see smokers smoking outside buildings because they are not now, even though the present law requires it, being afforded the opportunity of having an indoor smoking area. This is of particular concern when employees are observed smoking outside buildings in 20° below zero weather.

Many of the buildings in the Capitol Complex were paid for by tax revenues generated from the sale of cigarettes and other tobacco products. The same is true of buildings and units of the University System. The buildings in the Capitol Complex and at University System locations are being maintained by revenues derived from the sale of cigarettes and other tobacco products.

The very people who are contributing to the construction and maintenance of the buildings in which the work areas covered by HB 860 are located are being harassed by those supporting this legislation.

We respectfully request that you oppose HB 860.

JEROME ANDERSON
Representing The Tobacco Institute

MARK C. STAPLES
Representing the Montana Assn.
of Tobacco and Candy Distributors

JOHN DELANO
Representing Philip Morris Ltd.

ROGER W. TIPPY
Representing R.J. Reynolds



Office of Cancer Communications Building 31, Room 10A24
Bethesda, Maryland 20892

9
2-18-91
HB 860

May 1990

INVOLUNTARY SMOKING

Although many terms are used to describe a nonsmoker's exposure to environmental tobacco smoke (passive smoking, secondhand smoke, etc.), the most common is "involuntary smoking." This term is used to suggest that nonsmokers' exposure to environmental tobacco smoke (ETS) is an unavoidable consequence of being near smokers, often in indoor closed environments.

What Is ETS?

Environmental tobacco smoke (ETS) is the combination of smoke from a burning tobacco product between puffs (sidestream smoke) and smoke exhaled by the smoker (mainstream smoke). More than 4,000 individual compounds have been identified in tobacco and tobacco smoke. Among these are some five dozen compounds that have been clearly established as carcinogens (cancer-causing agents), tumor initiators (substances that can result in irreversible changes in normal cells), and tumor promoters (substances that can lead to tumor growth once cell changes begin). Some of the compounds identified are tar, carbon monoxide, hydrogen cyanide, phenols, ammonia, formaldehyde, benzene, nitrosamine, and of course, nicotine. The levels of many of these compounds are greater in sidestream smoke than in mainstream smoke.

Although the smoke to which an involuntary smoker is exposed is less concentrated than that inhaled by active smokers, numerous studies have shown that individuals exposed to ETS in real-life situations absorb nicotine and other harmful compounds. The levels of these compounds become elevated in the blood, saliva, and urine. Further, the greater the exposure to ETS, the greater the level of these harmful compounds in the body.

In 1986, two very important reports were published on the association between ETS exposure and adverse health effects in nonsmokers: one by the U.S. Surgeon General and the other by the Expert Committee on Passive Smoking, National Academy of Sciences' National Research Council (NAS/NRC). They reached similar conclusions about ETS in three important areas:

14. Powars DR, Sandhu M, Niland-Weiss J, Johnson C, Bruce S, Manning PR. Pregnancy in sickle cell disease. *Obstet Gynecol* 1986; 67:217-28.
15. Charache S, Scott J, Niebyl J, Bonds D. Management of sickle cell disease in pregnant patients. *Obstet Gynecol* 1980; 55:407-10.
16. Koshy M, Burd L, Dora L, Huff G. Frequency of pain crisis during pregnancy. *Prog Clin Biol Res* 1987; 240:305-11.
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MEDICAL PROGRESS

HEALTH EFFECTS OF INVOLUNTARY SMOKING

JONATHAN E. FIELDING, M.D., M.P.H., AND KENNETH J. PHENOW, M.S., M.P.H.

ALTHOUGH each year since 1964 the Surgeon General has identified smoking as the single most important cause of preventable mortality, of late attention has been focused increasingly on the health effects of involuntary, or passive, smoking. When this topic was first raised in the 1972 *Report of the Surgeon General*,¹ only a handful of studies addressed the issue. In 1979, the encyclopedic report on cancer² devoted a chapter to passive smoking. The 1984 report on chronic obstructive lung disease³ devoted more attention to passive smoking, on the basis of studies suggesting that nonsmokers who were exposed to spouses who smoked had an increased risk of lung cancer.

In 1986, two landmark reports by the Surgeon General⁴ and the National Academy of Sciences⁵ reached similar conclusions about the adverse health effects of involuntary smoking on healthy adults and children. The Surgeon General's report⁴ asserted for the first time that the involuntary inhalation of cigarette smoke by nonsmokers causes disease, most notably lung cancer. Although the report cited smaller risks from involuntary smoking than from active smoking, it noted that the number of people injured by involuntary smoking was much larger than the number injured by other environmental agents that are already regulated.

These conclusions, and the finding that separating smokers from nonsmokers within the same physical space does not eliminate involuntary smoking, have engendered an extensive debate on the medical, social, and legal aspects of the problem and on alternative strategies of controlling it. Since the mid-1980s, movements to ban smoking in offices and public places have accelerated nationally and internationally, among them a recent federally mandated smoking ban ap-

plying to all domestic airline flights of less than two hours' duration. Forty-two states have legislated smoking restrictions, most of them applicable to public transportation (35 states), hospitals (33), elevators (31), indoor cultural or recreational facilities (29), schools (27), and libraries (19).⁴

The ubiquitousness of tobacco smoke in homes, workplaces, public areas, and private establishments makes exposure to environmental tobacco smoke unavoidable. In a large population study⁶ of nonsmokers and former smokers, 63.3 percent of the nonsmokers reported some daily exposure; 34.5 percent were exposed at least 10 hours per week, and 15.9 percent at least 40 hours per week. Approximately 70 percent of the children in the United States live in homes where there is at least one adult smoker.⁷

ENVIRONMENTAL TOBACCO SMOKE AND PASSIVE SMOKING

Involuntary smoking occurs when nonsmokers are exposed to the tobacco smoke of smokers in enclosed environments.⁷ Environmental tobacco smoke is derived from two sources — mainstream and sidestream smoke. Mainstream smoke is the complex aerosol mixture inhaled by the smoker, filtered in the lungs, and exhaled. Sidestream smoke is the aerosol emitted directly into the surrounding air from the lit end of a smoldering tobacco product. Qualitatively, the two types of smoke share similar components, including oxides of nitrogen, nicotine, carbon monoxide, and various carcinogens and cocarcinogens. However, undiluted sidestream smoke has a higher pH, smaller particles, and higher concentrations of carbon monoxide, as well as many toxic and carcinogenic compounds that are also found in mainstream smoke, including ammonia, volatile nitrosamines, certain products of nicotine decomposition, and aromatic amines.^{4,5} Although an estimated 85 percent of the smoke generated in an average room during cigarette smoking is composed of sidestream smoke, pas-

From the Schools of Public Health and Medicine of the University of California, Los Angeles (J.E.F., K.J.P.), and Johnson and Johnson Health Management, Inc., Santa Monica, Calif. (K.J.P.). Address reprint requests to Dr. Fielding at CHS 31-326, University of California at Los Angeles, Los Angeles, CA 90024.

Senator Rye said because of the University setting in Bozeman the referendum would probably have a different outcome than if it were given in other parts of the state.

Representative Bradley said she thought that was wrong. She said she hoped the committee members read the USA TODAY article on the two Montana college students who were chosen for the academic team and many other Montana students placed as well. She said people wondered by Montana students were performing so well. The rural nature, emphasis on small schools, families caring about how schools function, a high work ethic. Many large corporations are recruiting Montana students for jobs because of their positive attitude toward working. She asked why we should penalize our students when their record is the best in the country.

Closing by Sponsor:

Representative Bradley closed by thanking the committee for a good hearing.

HEARING ON HOUSE BILL 860

Presentation and Opening Statement by Sponsor:

Representative Tim Dowell opened by asking what we are doing in our society to curb the use of cocaine and crack which are very harmful to our society. He asked about AID's, heroine and other problems. He held up a chart which showed that smoking kills more people than any of the other problems combined. He said we hear more at the national level about cocaine and crack than tobacco use. He said this bill was not really about smoking. It only says that people who do not smoke should not be subject to the effects in public buildings. He said he walked around the Capitol complex and checked with the different agencies and found out that the majority of buildings have pretty good conditions. A few buildings have no consistent smoking policies. He passed the committee members copies of Exhibit #8 and talked about passive smoke inhalation. He said he breathes much smoke while performing his duties as a public servant and said he wished he did not have to inhale the smoke. He said the bill makes it policy in the state of Montana that public buildings are smoke free. Secondly, that all state buildings have a spot for smoking. It was amended in order to pass it out of the House committee. He said the only reason a bill like this would fail is if someone does not believe that smoking is dangerous. He asked the committee a simple question, do you believe smoking causes lung cancer.

Proponents' Testimony:

The first witness was Paulette Kohman, director of the Montana Council of Maternal and Child Health. She said in Montana most buildings are funded from the Long range building program which is financed in part by cigarette taxes.

Ms. Kohman continued by saying the opponent's argument is that they build them, they should be able to pollute them. If citizens have to enter public buildings to conduct their work they have the right not to be assaulted by smoke. Second hand smoke is dangerous and causes death as well.

The second witness was Dave Davidson, representing the Montana University System. He said they support the bill but have a concern. He looked at the bill about fifteen minutes before the hearing. The university system does not have the same authority as the school districts or community colleges in making entire buildings smoke free. Their may be a dilemma. By the design of the bill a smoke free building is defined to be one with a designated smoking area. There are a number of buildings on campuses that are smoke free by design or because of the use of the building. This needs to be addressed in the bill.

The third witness was Liter Spence, representing himself. See Exhibit #9 for a copy of his testimony.

The fourth witness was Earl Thomas, representing the American Lung Association. See Exhibit #10 for a copy of his testimony.

The fifth witness was Jim Jensen, representing the Environmental Information Center. He said they support any pollution control legislation.

The sixth witness was Stan Bradshaw, lobbyist. He said there is much smoke in the Capitol hallways and said he was in favor of the bill.

The seventh witness was Mike Males, representing himself.

Opponents' Testimony:

The first witness to testify was Jerome Anderson, representing the Tobacco Institute. The current statute provides that people in charge of individual state buildings shall arrange non-smoking and smoking areas in convenient places. He said HB 860 restricts against providing for smoking areas in virtually all of the building. It does not leave much location for a smoking area to be established. He said he understands the concern of the state of air quality in the Capitol building. There is passive smoke, but he does not understand how anyone could regulate the Capitol building because of the citizens from out-of-town coming in to testify on bills. People cite statistical information with regard to passive smoke. The last Surgeon General stated in a report that there was no scientific basis for the conclusions reached upon assumptions with regard to passive smoke. The Tobacco Institute does admit that there is a correlation between health issues and the use of tobacco products. The legislature and the people of Montana cannot have it both ways. If the tobacco industry pays for the facilities that this state uses it is only logical that those people have an opportunity to practice a personal right. He said they feel the present statute is adequate to take care of the problems.

The second witness was Susan Meyer, representing herself. See Exhibit #11 for a copy of her hand-out. She said smoking is a social condition and the Constitution of the United States prohibits discriminating against anyone with a social condition. The U.S. government supplies and transports cigarettes to soldiers.

Questions From Committee Members:

Senator Pipinich asked about the chart Representative Dowell used during his opening statements.

Representative Dowell said the chart was given to him by the American Lung Association. He said the chart depicted statistics on a national level.

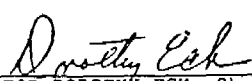
Senator Jacobson said she handed out the same chart during her presentation.

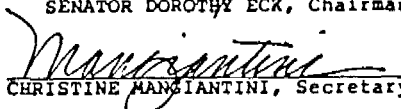
Closing by Sponsors:

Representative Dowell closed by saying he did not know of anyone acquiring problems from passive alcohol consumption. He said he received a letter from a constituent that said there were many provisions for the handicapped at the state Capitol but none for those with asthma or emphysema (exhibit #12). Since 1989 there have been over 130 documented medical articles connecting passive smoke with lung disease. He left with the committee a copy of the Montana constitution (exhibit #13).

ADJOURNMENT

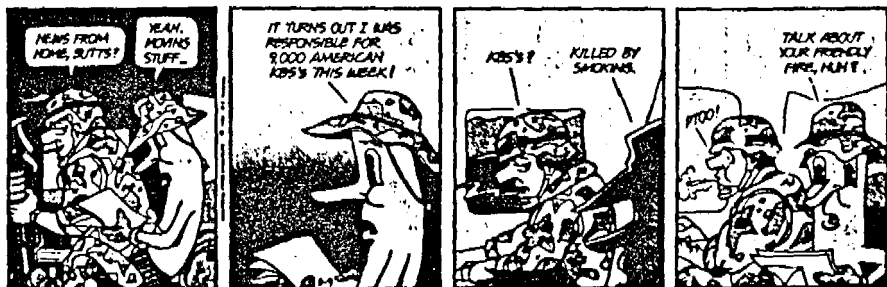
Adjournment At: 5:20 p.m.


SENATOR DOROTHY ECK, Chairman


CHRISTINE MANGIANTINI, Secretary

- Involuntary smoking can cause lung cancer in nonsmokers.
- The children of parents who smoke have an increased frequency of hospitalization for bronchitis and pneumonia during the first year of life when compared with the children of nonsmokers.
- The children of parents who smoke have an increased frequency of a variety of acute respiratory illnesses and infections, including chest illnesses before 2 years of age and physician-diagnosed bronchitis, tracheitis, and laryngitis, when compared with the children of nonsmokers.
- Chronic cough and phlegm are more frequent in children whose parents smoke compared with children of nonsmokers.
- Undiluted sidestream smoke is characterized by significantly higher concentrations of many of the toxic and carcinogenic compounds found in mainstream smoke, including ammonia, volatile amines, volatile nitrosamines, certain nicotine decomposition products, and aromatic amines.
- Environmental tobacco smoke can be a substantial contributor to the level of indoor air pollution concentrations of respirable particles, benzene, acrolein, N-nitrosamine, pyrene, and carbon monoxide.
- Measured exposures to respirable suspended particulates are higher for nonsmokers who report exposure to environmental tobacco smoke.
- The main effects of the irritants present in environmental tobacco smoke occur in the conjunctive of the eyes and the mucous membranes of the nose, throat, and lower respiratory tract. These irritant effects are a frequent cause of complaints about poor air quality due to environmental tobacco smoke.
- Smoking policies may have multiple effects. In addition to reducing environmental tobacco smoke exposure, they may alter smoking behavior and public attitudes about tobacco use. Over time, this may contribute to a reduction in smoking in the United States. To the present, there has been relatively little systematic evaluation of policies restricting smoking in public places or at the workplace.
- On the basis of case reports and a small number of systematic studies, it appears that workplace smoking policies improve air quality, are met with good compliance, and are well accepted by both smokers and nonsmokers. Policies appear to be followed by a decrease in smokers' cigarette consumption at work and an increase in enrollment in company-sponsored smoking cessation programs.
- Laws restricting smoking in public places have been implemented with few problems and at little cost to State and local government.
- Public opinion polls document strong and growing support for restricting or banning smoking in a wide range of public places. Changes in attitudes about smoking in public appear to have preceded legislation, but the interrelationship of smoking attitudes, behavior, and legislation are complex.

Source: The U.S. Surgeon General's report, "The Health Consequences of Involuntary Smoking"



HB 860

Testimony by Liter Spence to the Senate Committee on
Public Health, Welfare and Safety

March 11, 1991

My name is Liter Spence. I am an employee of the Department of Fish, Wildlife and Parks in Helena and am here on my own time representing a committee of employees in the Department of Fish, Wildlife and Parks building which has been involved in a smoking policy for our building. We agree with the intent of the legislation to provide a smoke-free environment in state buildings. The DFWP headquarters building at 1420 East 6th Avenue was declared smoke-free by the director's office in January 1990. Signs are located at all building entrances stating that smoking is not allowed anywhere within the building.

This no smoking policy was the result of recommendations by a smoking policy committee of employees appointed by the director's office as a result of numerous complaints by employees about smoke in the building. At that time, smoking was allowed in restrooms, corridors, the lobby, in the building's single, small lunchroom, and in some work spaces.

The smoking policy committee conducted a survey of all the employees in the building as to their preference for a smoking policy. The survey results and the space limitations in the building showed that the best option was to designate the entire

building smoke-free. This policy has worked very well implemented over a year ago.

New Section 3(2) of this bill, as amended, states the head shall establish at least one designated smoking the building. We feel this requirement would be a b for our employees.

We recommend the bill be amended so that agencies have to establish a designated smoking area, but are not required, so, and, that agencies with an existing smoke-free building be allowed to continue that policy.

We recommend the bill be amended in New Section 3(2) replacing in the first sentence (line 18) the word shall word may as was contained in the introduced bill.

dr



AMERICAN LUNG ASSOCIATION OF MONTANA

Christmas Seal Bldg. — 825 Helena Ave.
Helena, MT 59601 — Ph. 442-8358

EARL W. THOMAS
EXECUTIVE DIRECTOR

SENATE HEALTH & WELFARE

ENR BT NO. 10

DATE 3/1/91

BILL NO. 860

TO: MEMBERS OF SENATE PUBLIC HEALTH COMMITTEE

FROM: EARL THOMAS, EXECUTIVE DIRECTOR
AMERICAN LUNG ASSOCIATION OF MONTANA

DATE: MARCH 11, 1991--3 P.M. ROOM 410

SUBJECT: HB 860--DECLARING STATE BUILDINGS SMOKE-FREE

THE AMERICAN LUNG ASSOCIATION OF MONTANA SUPPORTS HB 860.

WE APPLAUD THE HOUSE OF REPRESENTATIVES FOR APPROVING HB 860.

A 1987 GALLUP NATIONAL OPINION SURVEY REPORTED THAT 55% OF ALL PERSONS WERE IN FAVOR OF A TOTAL BAN ON SMOKING IN THE WORKPLACE.

BY GIVING HB 860 A "DO PASS" RECOMMENDATION YOU WILL HELP THE OVER 80% OF MONTANA'S STATE EMPLOYEES FROM WORKING IN UNHEALTHY CONDITIONS PLUS HELP SMOKERS TRYING TO QUIT TO BE MORE SUCCESSFUL, REDUCE ACCIDENTS, CLEANING COSTS, AND FIRE RISKS.

THESE SMOKE-FREE POLICIES WILL ENCOURAGE BUSINESSES TO ADOPT SIMILAR POLICIES.

THE ATTACHED HANDOUT PROVIDES ADDITIONAL DATA ON HAZARDS OF SMOKING AND THE WORKPLACE.

Smoking And The Workplace

6

Why Does Smoking Cause Harmful Health Effects In The Workplace?

The fact that smoking, especially cigarette smoking, can damage people's health is well-documented. Cigarette smoking is the leading cause of preventable disease and death in the United States. It is a major cause of emphysema, chronic bronchitis, lung cancer and heart disease.

Cigarette smoking also increases the total exposure to harmful chemicals that workers receive. More importantly, it can act in combination with workplace chemicals to raise the level of damaging health effects. In addition, harmful health effects can occur from smoking a cigarette that is contaminated with chemicals or other substances used or produced on the job. Nonsmokers may also develop health problems from breathing in smoke from co-workers' cigarettes.

What Are The Ways That Smoking In The Workplace Can Affect Your Health?

Synergistic Health Effects of Cigarette Smoking and Chemical Exposures. When workers smoke and are exposed to other toxic substances on the job, they can experience far greater health damage than what might be expected from simply adding together the damage each contributing factor is capable of causing. The most dramatic example of greater health damage resulting from "combined" exposures involves smoking and asbestos. Asbestos workers who smoke more than a pack a day have up to 90 times the chance of dying of lung cancer as compared to workers who neither smoke nor work with asbestos. Another substance that appears to act in this "combined" way with tobacco smoke is chloromethyl ether.

Cigarette Smoking Can Add to Health Damage Caused By Exposure to Toxic Agents. Scientists have concluded that chronic respiratory diseases develop when the lungs repeatedly experience the damaging effects of cigarette smoking, recurrent respiratory infections beginning in childhood, or long-term occupational and environmental exposures. Smoking adds to the harmful health effects which result from exposure to toxic chemicals in the workplace.

Chemicals In Cigarette Smoke are Also Found In the Workplace. Tobacco smoke contains hundreds of toxic substances, many of which are also found in the workplace. The following is a partial list of chemicals found in cigarette smoke that are commonly present in the workplace and can add to a worker's total exposure:

Acetone	Lead
Aldehydes (acetaldehyde, acrolein, formaldehyde)	Methyl Chloride
Arsenic	Methyl Nitrate
Benzene	Nicotine
Cadmium	Nitrogen Dioxide
Carbon Monoxide	Nitrosamines
Hydrogen Cyanide	Phenol
Hydrogen Sulfide	Polycyclic Aromatic Compounds (tars)
Ketones	

Workplace Chemicals Can Enter the Body When Contaminated Cigarettes Are Smoked. Cigarettes may actually help to carry toxic substances into the body. As a person holds and smokes a cigarette, toxic substances may enter the body through breathing, taking them in through the mouth or skin absorption. Examples of workplace chemicals that can enter the body of workers smoking contaminated cigarettes include dusts, lead, mercury and formaldehyde. Additionally, pesticides used in treating tobacco during processing can enter the body by breathing them in and become 100% absorbed. The National Institute for Occupational Safety and Health (NIOSH) recommends that cigarettes not be kept on a person in the work area and that if a person must smoke their hands should be washed before smoking.

Burning Tobacco Can Transform Workplace Chemicals Into More Toxic Substances. The heat generated by burning tobacco can transform workplace chemicals into more harmful substances. An example of this is Polymer Fume Fever. This is a disease caused by breathing fumes generated from heated resin. The fumes can lead to permanent lung damage. Polymer fumes can enter the lungs as a worker smokes cigarettes contaminated by the work process or contact with the worker's hands. Another example of this type of "heat-generated" transformation is the conversion of chlorinated hydrocarbons, such as trichloroethylene, into highly toxic phosgene gas.

Workers Who Smoke Have More Accidents. Smokers have twice the accident rate of nonsmokers on the job. Suggestions about the reasons for this include loss of attention, the fact that a person's hands may be busy with the activity of smoking, irritation of the eyes and coughing. Higher carbon monoxide levels caused by smoking may lower alertness and reflex speed. Smoking can also contribute to fire and explosions in occupational settings where flammable and explosive chemicals are used.

What Can You Do To Prevent And/Or Decrease The Harmful Health Effects Caused By Smoking?

- Ask your employer to prohibit smoking in the workplace.
- Ask your employer to promote stop-smoking programs and incentive programs that encourage people to become nonsmokers.
- Do not use or carry tobacco products in a work area where you may be exposed to chemical substances.
- If you don't know if toxic substances are present, keep tobacco products out of the work area.
- If you must smoke, smoke only in designated areas that are

well-ventilated and located away from work processes.

- Always wash your hands before smoking.
- Contact your local American Lung Association and ask about their new workplace smoking program, TEAM UP FOR FREEDOM FROM SMOKING® (TUFS). TUFS is a comprehensive workplace smoking policy development, education and stop-smoking program. The program is designed to be fun, exciting and unique for all participants. TUFS includes an implementation guide for the employer, an Aim To Quit Kit containing more than 20 items to help smokers build and maintain their motivation to quit, and a Trammie Support Kit for co-workers helping smokers through the stages of quitting.

Where Can You Obtain Additional Information?

Your local American Lung Association. Provides literature, audio-visual materials and referral information to workers and employers concerned about work-related lung hazards and diseases. You can look up your local ALA on the other pages of your telephone book.

National Institute for Occupational Safety and Health (NIOSH). NIOSH responds to requests from the general public and workers as all forms of job-related health or problems. Call 1-800-35-NIOSH for information.

U.S. Occupational Safety & Health Administration (OSHA) Services.

Consultants. — Provides free consultation services and written materials to employers and employees regarding information/advice on occupational safety or health hazards and related control measures. On-site consultation visits to employers' requests can also be arranged.

Complains. — Responds to employee complaints of unsafe or unhealthy working conditions. Conducts workplace inspections and enforces occupational safety and health standards.

State or Local Health Department(s). Information is provided on occupational and environmental health hazards and control measures.

Safety Equipment Suppliers. Respirators and other personal protective equipment can be purchased from local safety suppliers.

Occupational Health Clinics/Specialists. Specialists in providing a wide range of services on the individual signs, symptoms, proper medical examinations, results of examinations of workers exposed to lung substances, health hazard evaluations, consultation and problem-solving on occupational health. Clinics may be associated with universities or private health care providers.

Community or University Libraries. References are available at local libraries on health risks related to workplace chemical exposures. Treats a wide range of health, safety, and occupational exposure information, as well as occupational health and safety. The Occupational Safety and Health Administration (OSHA) literature may also be available (for a fee) to employers which serves to reduce the most significant health information on hazardous substances.

Your Union Representative. Union stewards play a role in ensuring that occupational safety and health information as well as needs of and legal referrals.

Your Personal Physician. You should inform your physician about a history of and present to help it has been reported at work. This information is useful in your doctor in determining if an illness is work-related.

The American Lung Association's Fact Sheet #4 in this series, "Community Resources for Occupational Health," further explains the resources of these and other organizations.

AMERICAN LUNG ASS'N. OF MONTANA
825 Helena Ave. — (406) 442-5556
1-800-ALA OF MT
Helena, MT 59601

"The Christmas Seal People"

AMERICAN  LUNG ASSOCIATION®
The Christmas Seal People®

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11 day of May, 1991.

Name: Susan Meyer

Address: P.O. Box 6112 Helena, MT 59604

Telephone Number: none

Representing whom?

Smokers

Appearing on which proposal?

HB 860

Do you: Support? Amend? Oppose? X

Comments:

The state already has a law, it needs some
clarification, but adding everything else makes
the law even more unstable

MEMORANDUM

TO: Dennis Adams, Director

FROM: Department of Revenue (smokers)

DATE: September 20, 1990

SUBJECT: Smoking

Exhibit #11
- 3-11-91 HB 860

This is in reference to our civil rights being taken away. We the smokers are once again being deprived of our rights. Our Department Policy clearly states smoking is permitted in designated smoking/break rooms. One is to be allocated on the 3rd and 4th floors of the Mitchell Building for all of the Department of Revenue. Since this policy became effective only one room was designated for smoking by Income Tax Division which was located on the 3rd floor. All other divisions used this room because the administrators never told their division employees what was going on. Motor Fuels Tax Division on 2517 Airport Road has their own smoke room and a break room. Why is there so much inconsistency in the Mitchell Building. Why can employees smoke on the 2nd floor in their offices? Is it because they are not the Department of Revenue? We recognize there is no room on the 3rd floor but how about the 4th floor?

On page 3 of 3 of the Department of Revenue's Administrative Manual item #3 clearly states the Division Administrators may designate an area for smoking. Well on 9-06-90 at 2:00 pm a memorandum was sent notifying that the smoke room will be permanently removed effective 3:00 pm that day. Short notice, also only Income Tax Division was notified. See attached memo.

A copy of The Montana Clean Indoor Air Act is attached. See 50-40-201 Reservation of smoking and nonsmoking areas in work areas in state and local government buildings. We have more than seven employees in each Division that smoke. Does Department Policy override State Laws and/or Exemptions?

Our constitutional rights have been violated. We the smokers are being discriminated against. Smoking is a social condition.

The CONSTITUTION OF MONTANA (also attached):
Section 4. "Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas." Why are we being discriminated against?? Is it our religion? sexual preferences? Because we protect owls? Because we may be democrat instead of a republican? etc.

Our work incentives have been taken away one by one over the last 4 years. No pay increases, insurance goes up, cost of living goes up, gas, food, etc. This is another blow to the people. Now about doing the next step. Absolutely no food or drinks allowed in the work place. Reason: It makes people ill to watch someone overeat which will effect that persons health. You know heart attacks kill thousands. Besides it would save state funds by eliminating various state funded health programs. This rule will also save the State thousands of dollars on the equipment budget do to the spilling of drinks. Drinks and food get spilled on important files, office equipment, carpeting, chairs, etc. We should probably ban food from all offices. Ban microwaves from the closets. Do you know what happens when someone with a pace maker walks by a microwave oven that is in use? There are not even any signs in the department stating we have them. The public is always coming up to the Mitchell building. What about other buildings?

Based upon the above information and the attached copies of State Laws and Policies, we're asking that you reconsider the actions of your administrator's in denying our rights. We are only asking that you and your staff abide by the same laws to which we're required to adhere.

cc: DOR, Administrator
Governor
Human Rights Commission

- Exhibit #11
3-11-91 HB 860

*Closed the notice
to all employees.*

MEMORANDUM

- Exhibit #11
3-11-91 HB 860

To: Income Tax Division Staff
From: " Jeff Miller, Administrator Income & Misc. Tax
Subject: Block Room Expansion - Conference Room Relocation
Date: September 6, 1990

The increasing volume of current year income tax returns will require us to expand the block room. Having reviewed all available options, this memo is to inform you of my plans and the time table I hope to follow in implementing these changes.

EXPANSION OF THE BLOCK ROOM

The Block Room will soon expand into our existing conference room. We have ordered construction of additional shelving units to line the east wall of Room 316. We will also construct work stations along the west wall to accommodate the "pre-entry" of full pay returns with the advent of the enhanced Income Tax System January 1st, 1991.

RELOCATION OF THE CONFERENCE ROOM

The conference room will be relocated to Room 315 - the existing Designated Smoking Area / Break Room. I regret the inconvenience this may cause some of you, but we simply don't have the luxury of extra space.

Since we do not have another suitable space on either the 3rd or 4th floor, the designated smoking area for Division employees will be either the new cafeteria's designated smoking area or outside the building. Smoking elsewhere is prohibited by Department Policy 305-1.

Room 315 will be cleaned and painted starting tomorrow September 7th. It's use as a designated smoking area will permanently cease as of 5:00 P.M. today. We will relocate the refrigerator to the janitor's closet across the hall.

If you have questions or concerns regarding these matters, I will be pleased to visit with you.

cc: Division Administrators
Director's Office

DEPARTMENT OF REVENUE

SECTION: PERSONNEL

ADMINISTRATIVE
MANUAL

SUBJECT: DESIGNATED SMOKING
AREAS

GOALS:

The goal of this policy is to promote the health and safety of the work environment. The policy is intended to provide designated smoking and non-smoking areas rather than prohibit smoking entirely.

POLICY:

It is the policy of the Department that: SMOKING IS PERMITTED ONLY IN AREAS DESIGNATED FOR THAT PURPOSE.

1. The following have been designated as NO SMOKING areas:
 - Entrance and Reception Areas
 - Hallways and Corridors
 - Stairwells
 - Elevators
 - Conference/Meeting Rooms
 - Restrooms
 - Copy Areas
 - Individual work spaces
 - * In buildings where no single room is available the Administrator may designate the entrance or an entry way as a Designated Smoking area.
2. The following have been designated as SMOKING areas: - Designated Smoking/Break Rooms equipped with Department approved and supplied air filter machines. The Department will supply and replace filters at regular intervals.
3. Morning and Afternoon Breaks:
 - Employees may divide their a.m. and p.m. break into 2 ten-minute segments to allow time to use the Designated Smoking/Break Room and return to their work area.

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Department approved supplied air filtration machines. The Department will supply and replace filters at regular intervals.

3. Morning and Afternoon Breaks:

- Employees may divide their a.m. and p.m. break into 2 ten-minute segments to allow time to use Designated Smoking/Break Room and return to their work area.

DEPARTMENT OF REVENUE

SECTION:

PERSONNEL

ADMINISTRATIVE
MANUAL

SUBJECT: DESIGNATED SMOKING
AREAS

4. Smoking shall be limited to cigarettes.

5. Walking within the building with lit cigarettes is not permitted.

IMPLEMENTATION:

1. Division Administrators or elected officials are responsible for implementing and enforcing this policy.

2. Beginning June 1, 1988, the Department will pay for one freedom from smoking class or similar class approved by the Wellness Program for current employees. Employees attending 75% of the sessions will be reimbursed for 75% of the cost. The Department will reimburse the employee for the remaining 25% upon completion of the course. Classes will normally be scheduled on the employees personal time.

3. Beginning June 1, 1988, all applicants will be informed of the Smoking Policy during interviews.

4. Beginning September 1, employees are expected to follow the guidelines established in this policy. Employees who do not follow the policy will be subject to progressive disciplinary action.

5. A copy of this policy and signs stating "No Smoking Except in Designated Smoking Areas" shall be posted at all entrances.

APPLICATION:

1. All Department of Revenue employees who work in buildings where Department of Revenue employees are the primary occupants will comply with this policy.

2. All Department of Revenue employees who work in buildings where there is joint occupancy with other businesses will comply with this policy in the office area designated for Department of Revenue employees.

DEPARTMENT OF REVENUE

SECTION:

PERSONNEL

ADMINISTRATIVE
MANUALSUBJECT: DESIGNATED SMOKING
AREAS

3. Division Administrators may arrange for one room to be designated as the Smoking/Break Room. One Smoking/Break room may be assigned per floor in buildings where employees from more than one division work on the same floor. In buildings where no single room is available, the Administrator may designate an entryway or entrance as the Smoking Area.

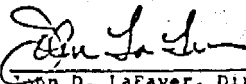
STATUTE:

The Montana Clean Indoor Air Act is the basis for this policy. (MCA 50-40-101-201)

CLOSING:

This policy shall be followed unless it conflicts with negotiated labor contracts or specific statutes, which shall take precedence to the extent applicable.

Approved



John D. LaFaver, Director

MEMORANDUM

To: Income & Misc. Tax Division Staff
From: Jeff Miller, Administrator
Subject: Clarification of Designated Smoking Area
Date: September 7, 1990

As a point of clarification to my memo yesterday explaining expansion of the block room and the relocation of the confer room, please consider the following:

My paragraph stating:

Since we do not have another suitable space on either 3rd or 4th floor, the designated smoking area for Division employees will be either the new cafeteria's designated smoking area or outside the building. Smoking elsewhere prohibited by Department Policy 305-1.

was not well worded. I do not have authority, nor did I intend to designate the cafeteria as this Division's Designated Smoking Area. My apologies to Esther especially, and anyone confused by my poor drafting. Rather, my memo should have stated:

With the closure of Room 315 as a Designated Smoking Area, there are no remaining Division Designated Smoking Areas on either the 3rd or 4th floor.

Finally, I understand that smoking is permitted in Esther's cafeteria. However, I would certainly think that common courtesy would suggest her tables are intended for her patrons.

xc: Esther
Director's Officer

State of Montana

Great Ideas, Great People

Exhibit 811
3-11-91 HB 84



Department of Revenue

Denise Adams, Director

Room 455, Sam W. Mitchell

Helena, Montana

September 27, 1990

MEMORANDUM

To: Teresa Boyd
Income and Miscellaneous Tax Division

From: Pat Lopach *Pat Lopach*
Personnel Officer

Subject: Designated Smoking Areas Policy

Denise Adams has asked Jeff Miller and myself to review the concerns you in your memorandum dated September 6 and in a second memorandum September 20, 1990.

We plan to form a committee to address the issues you raised and to identify ways to resolve those issues. The committee would consist of representatives from the smokers group, two representatives from the Mi Building Cafeteria Committee, two non-smoking employees, Jeff Miller myself.

Please contact me with the names of your representatives by 5:00 am on Monday October 1. I will then try to schedule a meeting at a time that works everyone.

Hopefully, if we all put our heads together, we will be able to come up with a workable solution.

copy: Denise Adams
Jeff Miller

State of Montana

Great Northern, Incorporated

Exhibit # 11
3-11-91 HB 860



Department of Revenue

Denise Adams, Director

Income and
Miscellaneous Tax Division

Art Miller, Administrator

September 27, 1990

MEMORANDUM

TO: Pat Lopach
Personnel Officer

FROM: Chuck Wowerelt *Chuck*
Income and Miscellaneous Tax Division

RE: Designated Smoking Areas Policy

This will confirm receipt of your memorandum concerning the above matter. I am aware of the signed petition that was sent to the director, and am now aware of the second memorandum you referred to. I also understand that the DOR smokers are scheduling a meeting to select their representatives.

I believe that there are two questionable issues in your memorandum that must be addressed before any meetings should be scheduled:

1. Your requirement for the names of the two smokers representatives by 5:00 am on Monday, October 1st, permits little or no time to select our representatives. Somehow, I don't believe you particularly want to be called at that time in the morning.
2. The problem being addressed is not a smoking vs non-smoking problem. It's merely a matter of providing a smoking area as provided by law.

Therefore, the two non-smoking representatives should not be included in the meeting. The non-smokers concerns have already been met under the existing DOR policy. Certainly, they should not be included when both of them apparently are going to represent the director in a presumably unbiased meeting.

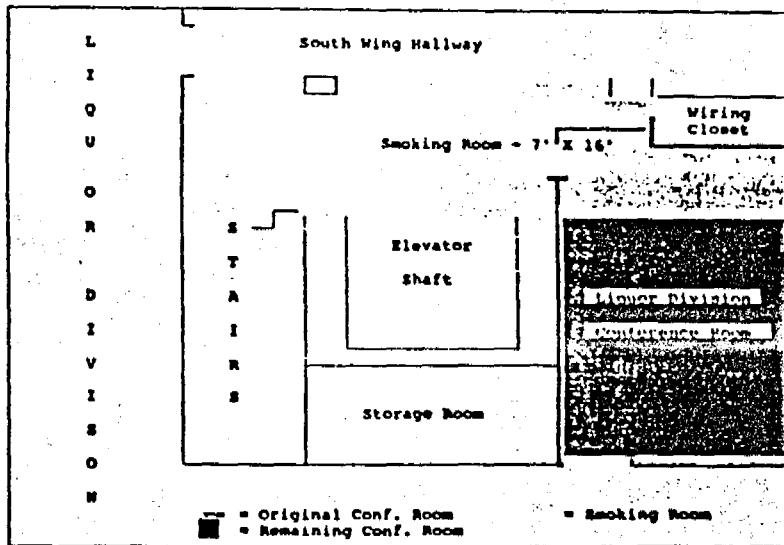
cc: Denis Adams
Jeff Miller
DOR Smokers

Memorandum

November 26, 1990

To: All Division Administrators
From: Jack Ellery, Deputy Director
Subject: Smoking Room Progress

Today, Jeff, Gary and I met with Department of Administration staff to discuss the creation of a smoking room on the third floor. We are proposing to create a smoking room carving out a portion of the Liquor Division conference room and expanding into the hallway. Below is a schematic of the designated smoking area:



The General Services Division estimates the cost of remodeling to be \$1,500 to \$2,000. This estimate includes ventilation fans to exhaust smoke through the elevator shaft to the roof exterior. Additionally, they have committed to have work completed by January 1, 1991. Please share this with your staff. I would appreciate any comments as soon as possible.

*Room done 3/1/91
not vented thru elevator*

PROPOSITIVE

THE LESSON OF BEVERLY HILLS

In 1987 the City Council of Beverly Hills, California, decided that no one would be permitted to smoke in any Beverly Hills restaurant.

The result: Business in the city's restaurants dropped 30 percent. Linen suppliers, food distributors, and other related businesses suffered as well. Public outcry soon led to the amendment of the law, allowing smoking and non-smoking sections.

The Beverly Hills City Council had been taught a lesson: Restaurant smoking bans are doomed to fail.

It is a lesson that obviously also has been learned in neighboring Los Angeles. Councilman Marvin Brande of that city (141th District) failed recently to push through a law that would ban all smoking in Los Angeles restaurants.

Restaurant smoking bans are doomed to fail because they do not meet the first test of any proposed legislation: Is the new law necessary?

According to Rick Cade, former executive director of the Beverly Hills Restaurant Association, restaurant smoking bans are more than unnecessary—they are redundant.

"If there is one industry committed to accumulating clients," Cade said in testimony before the L.A. City Council, "it's the restaurant business. If customers really wanted to end smoking in restaurants, you wouldn't need an ordinance; the restaurants would rush to stop smoking."

The L.A. City Council apparently found Cade's simple reasoning hard to argue with.

The fact is no one—other than committed anti-smoking activists—wants to see smoking banned in restaurants. The public does not want it. The restaurant owners certainly do not want it. As one restaurant noted, there are plenty of non-smoking restaurants already, especially in California. Diners who do not want to be exposed to cigarette smoke are free to patronize them.

Most restaurants, however, do all they can to accommodate both their smoking and non-smoking patrons. They do this for the same reason they offer decaffeinated coffee and low-calorie sweeteners: They are in the business of satisfying their customers.

Restaurant smoking bans are doomed to fail. Fortunately the L.A. City Council learned the lesson of Beverly Hills in time.

VIEWPOINTS

ONE-WAY FLIGHT

The airline smoking ban is intolerable, and it infringes on my constitutional right to travel without restriction.

I have lived on the West Coast for 25 years; I live in upstate New York. During all these years I have flown east to visit on an average of once a month. We had expected to go east late last year but we had to change our plans because there even one flight across this country on which we smoke! I would not have been surprised if they had scheduled a certain number of flights that strictly non-smoking. I would not have been so if these even comprised the majority of the flights.

But to ban smoking altogether discriminates against an entire segment of the population. It must be possible to schedule at least one cross-country flight a week on which smokers are permitted.

I am sure I am not alone in feeling totally discriminated by these new rules. Freedom is not way-stopped—I want mine, too.

ANN L. M.

NYC

Editor's note: Sen. Frank Lautenberg (D-NJ) opposes federal legislation that banned smoking on domestic flights. You can write to him at 717 Hart Senate Office Bldg., Washington, DC 20510.

ALL SIDES CONSIDERED

As a pipe smoker, I am getting fed up with the effort to outlaw smoking. I refuse to make purchases many stores with anti-smoking policies. Perhaps smokers have brought these discriminatory policies on themselves, but all it takes to remedy the situation is some consideration for other people.

In nearby Joplin, Missouri, the Dillon supermarket asks that smokers be considerate of other Joplin physician's office has a glassed-in, ventilated area in the waiting room for patients who smoke for those who smoke who are accompanying patients.

All it takes is consideration for other people. I know many people are irritated by tobacco smoke. When I go to the movies or ride in the cars of those who do not smoke, I do not smoke out of compassion for them. I am their guest, and I feel I owe them that much. While sitting in a restaurant recently with a family at a nearby table obviously was irritated by smoking. When I noticed it (they had said no), I put down my pipe until they had left the restaurant.

But it's time to put a stop to the demands of those who wish to control everyone else. I talk with legislators, and Kansas has not passed a smoking law. Others can do the same.

RAFI.

OSW

SIGN OF THE TIMES

Please tell me how I can get the red-and-green Accommodation Program logo shown in the July-August issue ("Pittsburgh Patrons See Signs of Hospitality")

for my office. It symbolizes something I feel is important to express.

The nonaccommodation position held by antismokers continues to spread in our society. They promote it at nauseam. And our legislators increasingly are seeking votes by stating, "We are treating you badly because we love you." In spite of their good

intentions, it is too evocative of Inquisition mentality.

Wishing the Accommodation Program success,

EDWARD A. PANIELLA

RIDGE CREST, CA

Editor's note: The distinctive logo can be obtained by writing to Accommodation Program, One Gateway Center, Suite 2000, Pittsburgh, PA 15222.

STANDING TALL

We read more magazine articles about the erosion of our rights as Americans. More and more, our rights are being invaded and taken away.

We need to be informed of what action the government is taking, and how we can stand up and defend our rights. We can't become unconscious Americans! We must stand up and fight for what we believe in! After all, isn't that how this country was built?

WENDY S. LAROCHE

SCARBOROUGH, CT, USA

THAT'S THE TICKET!

Happiness to me would be if I were to win the lottery, to buy the company I used to work for—and from which I was fired for being a smoker—and then to fire the man who fired me.

LILLIAN SMILA

CANTON, OH

Editor's note: Smokers who have been the victims of job discrimination should write to: Philip Morris Magazine, Executive Edition, 120 Park Ave., 11th Floor, New York, NY 10017.

AN ENLIGHTENING IDEA

Now is the time for someone to tap the potential market among the 30 million American smokers for smokers' travel agencies and smokers' travel magazines. Let's hope some budding entrepreneurs will light up to that idea.

MARGARET-MARY DE TUTO
NORTH MYRTLE BEACH, SC

PERSPECTIVES

'SOCIAL COSTS'
DON'T ADD UP

Question: When is a social cost not a social cost?

Answer: When it is a private cost.

The prevailing may seem obvious, but it is a distinction that is being lost all too often. Lately in the debate on the so-called social cost of smoking.

The social cost theory is put forward by those who think that smokers should pay higher consumer excise taxes because, they claim, smokers are less productive than nonsmokers, absent from work more often, and run up higher medical bills.

Robert D. Tollison, professor of economics at George Mason University, describes such arguments as "marred by confusion and fallacy."

Dr. Tollison is being generous. The social cost theory has more holes in it than Swiss cheese.

To begin with, some studies, such as a 1984 University of Minnesota study, find smokers to be more productive than nonsmokers.

The research arm of the U.S. Chamber of Commerce recently conducted a study to determine if a worker's rate of absenteeism could be predicted on the basis of personal habits, such as smoking, drinking, and exercising. It found that only exercise "proved to be significantly associated with absenteeism." The more an employee exercised, the better his or her job attendance.

As for medical bills, smokers bear the burden of their own medical expenses just as nonsmokers do, through their private health insurance premiums and tax payments.

Moreover, the social cost theory can be applied to almost any group or activity. Obesity supposedly "costs" society \$27 billion a year, according to *American Demographics* magazine. Should we tax overweight people? *The Alcoholity and Mortality Weekly Report* states that injuries resulting from falling into base playing football "cost" society at least \$2 billion a year. How about taxing weekend football games?

The basic flaw of the social cost theory is the idea that people are the property of their employers and of the state—and that what they do privately is anyone else's business.

"It is totally inappropriate to treat individuals like economic lines that have broken down, bringing economic loss to their owners," Dr. Tollison writes. This analysis "is not relevant for the inhabitants of a free society."

Exhibit 11 also contains copies of the Montana Constitution, Art. II, sec. 4 and the Montana Clean Indoor Act. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 404-444-4775)

Written testimony on HB 860 hearing was on 3/11/91 Senate room 3:00pm and started 4:35pm.

From: Susan Meyer

Since I was unable to finish my testimony due do lack of time I was told to send it in. The hand outs I submitted includes the Constitution of the United States, and also the method of how the smoking issue was handled by the Department of Revenue.

Smoking is a social condition: It has been carried down from prior generations where smoking was commonly accepted and promoted. The U.S. Government even supported and condoned smoking by supplying and transporting ration packs containing tobacco or cigarettes to soldiers in foreign zones.

To delete smoking entirely within the world will take many generations and cannot be expected to be wiped out in oregeneration. Lets clean up the drugs, aids, cancer, smoke stacks, carbon monoxide do to vehicles, wood smoke, etc. The list is to long.

We the smokers are taxed by federal government and state government (which has already been mentioned here) but I would like to add, will every smoker get to deduct from their taxes the amount we pay per pack since we may not be able to smoke in State Buildings ?

There is already a law about smoking in buildings, and everybody acts like they didn't even know about it. The law should #1 be removed, or left as is, but who will make it mandatory for departments to have available smoking rooms ? With these add ons it makes the law more unstable, unclear. The State cannot designate a cafeteria a smoke room. These people lease a part of a State building they are not state employees.

How many non-smokers go in bars and don't even complain about the smoke, but then turn around and complain at work. What the state needs is better ventilation in buildings. Why can't a person smoke if they have there own office with a window and a smokeless ashtray ?

Since chewing tobacco is a tobacco product will this be banned from state buildings ? If not then we should be allowed to smoke.

With this bill no one considered the State Employee, it was scheduled with one days notice and a time set for 3:00pm. At lease with the pay hearing it was set in an evening.

SENATE HEALTH & WELFARE

EXHIBIT NO. 62

DATE 3/11

H BILL NO. 860

copy to

February 26, 1991

The Honorable Tom Dowell
Montana House of Representatives
State Capitol
Helena, MT 59601

Dear Mr. Dowell:

On Tuesday, February 19th, I had an opportunity to visit our State Capitol.

While I was there I noticed that there were many provisions for the handicapped such as ramps, elevators, etc., so that they may participate in State Government. However, for those particular individuals who may have a handicap such as asthma, emphysema or an intolerance in general to smoke, there are absolutely no provisions. The entire Capitol building was a smoky fog! I feel that you are discriminating against these people and barring them from participating in our State Government. Not to mention the health hazard that is being created for everyone. I believe smoking should be prohibited in all government buildings that are open to the public.

I observed several groups of students from around the state visiting and touring the Capitol. Our government leaders should be setting a good example for our young people and our other citizens. Smokers can postpone their smoking, I can not postpone my breathing!

Hopefully our legislators will address this issue.

Sincerely,


Harry S. Moore

Box 345
Cassida 59421

MONTANA CONSTITUTION

3

DECLARATION OF RIGHTS

Art. II, § 3

26. Trial by jury.
27. Imprisonment for debt.
28. Rights of the convicted.
29. Eminent domain.
30. Treason and descent of estates.
31. Ex post facto, obligation of contracts, and irrevocable privileges.
32. Civilian control of the military.
33. Importation of armed persons.
34. Unenumerated rights.
35. Servicemen, servicewomen, and veterans.

SENATE HEALTH & WELFARE

EXHIBIT NO. 13

DATE 3/11

H BILL NO. 860

Section 1. Popular sovereignty. All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Cross-References

- Self-government, Art. II, sec. 2, Mont. Const.
- Right of participation in governmental affairs, Art. II, sec. 8, Mont. Const.
- Right to know, Art. II, sec. 9, Mont. Const.
- Right of suffrage, Art. II, sec. 13, Mont. Const.
- General government, Art. III, Mont. Const.
- Constitutional revision, Art. XIV, Mont. Const.
- Government Structure and Administration, Title 2
- Basic political rights, Title 2, ch. 1, part 2

Constitutional Convention Transcript

- Cross-References
- Adoption, Trans. 2333, 2304.
- Committee report, Vol. II 620, 626, 967, 962, 967, 969, 1038.
- Cross-references, 1889 and 1872 Constitutions, Vol. II 646.
- Debate — committee report, Trans. 1635, 1636.
- Debate — style and drafting report, Trans. 2476, 2921.
- Final consideration, Trans. 2622, 2628.
- Text as adopted, Vol. II 1087.

Section 2. Self-government. The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

Cross-References

- Popular sovereignty, Art. II, sec. 1, Mont. Const.
- General government, Art. III, Mont. Const.
- Local government, Art. XI, Mont. Const.
- Constitutional revision, Art. XIV, Mont. Const.
- Constitutional Convention Transcript
- Cross-References
- Adoption, Trans. 2333, 2304.

- Committee report, Vol. II 620, 626, 967, 962, 967, 969, 1038.
- Cross-references, 1889 and 1872 Constitutions, Vol. II 646.
- Debate — committee report, Trans. 1635.
- Debate — style and drafting report, Trans. 2476, 2921.
- Final consideration, Trans. 2622, 2628.
- Text as adopted, Vol. II 1087.

Section 3. Inalienable rights. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Cross-References

- Right to bear arms, Art. II, sec. 12, Mont. Const.
- Environment and natural resources, Art. IX, Mont. Const.

- Department of Health and Environmental Sciences, Title 2, ch. 15, part 21.
- Department of Agriculture, Title 2, ch. 14, part 20.

DATE 3-11-91

COMMITTEE ON Public Health, Welfare & Safety

HB 378, 849, 860

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bob Moon	Some Health Dept	378		✓
Liter Spence	Self	860	✓	
Charles R. Brunk	MT Rts. Assoc	849	✓	
MIKE MALES	Self Doctor	378		✓
MIKE MALES	" "	849	✓	
Robert Shul	" Belmont	860		
Bill Stevens	17th Food Dist. Hcn	378	✓	
Victor Linder	Tolson Authority	378	✓	
Goullet Korman	MT Council for Materials	518		✓
" "	"	849	✓	
" "	"	860	✓	
Anna Vali Kater	Self	849	✓	
Jack Thomas	America Long Arm	378	✓	
DAVID EUGENSON	LA Sp. Town	860		✓
Tom Dawell	HDS	860	✓	
GENE PHILLIPS	SUMMIT TOWNS COUNCIL	378	X	
Stan Brackshaw	Self	860	✓	
Jim Laurel	MEIC	860	X	
Ken T. Landrum	MT. Med. Assoc.	860	✓	
Sam W. Odom	PM	378	X	
Jack Smith	DB	849	X	
D. E. K. R. R. R. R.	Healthy Mothers, Healthy Babies	849	X	
D. E. K. R. R. R. R.	Healthy Mothers, Healthy Babies	378		X
Cheryl W. W. W.	Mont. Breast Cancer Ctr.	378	✓	
Roger T. T. T.	RT Reynolds	378	✓	

(Please leave prepared statement with Secretary)

EXECUTIVE ACTION ON HOUSE BILL 860

Motion:

Senator Towe moved adoption of the amendments denoted in Exhibit #8.

Discussion:

Chairman Eck called upon Tom Gomez to explain the amendments.

Mr. Gomez said the bill returns to the original draft a provision to allow an agency head to establish designated smoking areas as opposed to requiring an agency head to establish designed smoking areas in each state building. It adds provisions that the designated smoking area, except in area prohibited, must be suited by architectural design and functional purpose to be used as a smoking area. He read through the amendments as they would be stated in the bill.

Chairman Eck said the effect would make the buildings smoke free. The agency has the option of providing a smoke free area or building.

Senator Towe said he was concerned about amendment #4 and asked about the problem of buildings with no suitable area. What if there is no suitable architectural design location. They can exercise their option.

Amendments, Discussion, and Votes:

Senator Jacobson voted against the amendments in Exhibit #8, all other committee members voted in favor of the motion thereby adopting the amendments.

Senator Jacobson asked about grandfathering certain buildings.

Chairman Eck said it was taken care of in the bill.

Senator Jacobson said the sponsor of the bill told her that unless they receive a bill requiring a smoking area that they are likely to vote the bill down. She said it would be safer to leave the bill in the present form and grandfather the buildings. She said the sponsor would much prefer a grandfather clause.

Chairman Eck said the sponsor did not talk to her about that but said it might be a good idea to have an amendment prepared for grandfathering buildings in case that issue arose.

Recommendation and Vote:

Senator Towe moved concurrence as amended. There being no objections the motion carried.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 14, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 860 (third reading copy -- blue), respectfully report that House Bill No. 860 be amended and as so amended be concurred in:

1. Title, line 10.

Following: "~~ALLOWING~~"

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Page 2, line 18.

Following: "may"

Strike: "SHALL"

Insert: "may"

3. Page 2, line 19.

Following: "AREA"

Strike: "within the"

Insert: "in each"

4. Page 2, line 20.

Following: "(1)"

Insert: ", suited by architectural design and functional purpose
to be used as a smoking area"

Signed: _____
Dorothy Eck, Chairman

MA 3-14-91
Add. Coord.

SP 3-14 12:35
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 13, 1991 H Bill No. 860 Time 4:10 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON		X
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Towe moved adoption of the amendments denoted in
Exhibit #8.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date March 13, 1991 H Bill No. 860 Time 4:15 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Towe moved concurrence as amended. There being
no objections the motion carried.